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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/517,490	12/10/2004	Iwao Yamazaki	04173.0461-00000	5583
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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413				
EXAMINER				
APANIUS, MICHAEL				
ART UNIT		PAPER NUMBER		
3736				
MAIL DATE		DELIVERY MODE		
04/01/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/517,490

Applicant(s)

YAMAZAKI ET AL.

Examiner

Michael Apanius

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 December 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5 and 6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5 and 6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/30/2007 has been entered. The amendments to claims 1-3, 5 and 6 are acknowledged.

Claim Objections

2. Claims 2, 3, 5 and 6 are objected to because of the following informalities:
- a. At claim 2, line 3, it appears that "at least male or female and the age" should be --at least one of gender and age--.
 - b. At claim 3, line 4, it appears that "memory of" should be --memory for--.
 - c. At claim 3, line 8, it appears that "display of" should be --display for--.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the

art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 3 and 6 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 1, line 17 states, "a first display." At claim 3, line 8, "a second display" is claimed. However, the original disclosure does not appear to support the display equipment having two displays. Applicant has not provided a citation for any support of a first and second display. Therefore, it appears that the amended claim 3 is not properly supported by the original disclosure.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 3 and 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 3 states, "a memory of storing the approximate value calculated by the calculating means on the basis of the measured impedance, and said personal information put into the display equipment." It is unclear if the recitation of "and said personal information put into the display equipment" is recited because the approximate value is also calculated based on said personal information or if the language requires that the memory also stores said personal information. In addition, claim 3 states, "a second display of indicating sequentially the

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approximate value". The meaning of "indicating sequentially" is unclear when only *one* approximate value is indicated. Therefore, claim 3 is indefinite.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-3, 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shimomura (US 6,539,310) in view of Kawanishi (JP 11-123182).

9. Shimomura discloses a display equipment for displaying the characteristics of a body including the quantities of the bone, the water and/or the muscles of the body, the display equipment comprising:

a plurality of pairs electrodes (21a,b and 22a,b) for contacting the surface of the body;

means for measuring (23, 24) the impedance of the body by feeding a measuring current through said plurality of electrodes into the body;

means for putting personal information (41) into the display equipment;

means for calculating (45) the approximate value of muscular weight (column 5, lines 58-63) of the body on the basis of the measured impedance and said personal information;

means for judging the somatotypes of the body, which are classified on the basis of correlations between approximate values as calculated and body weight (see at least figures 5-7); and

a display (42) for indicating the somatotype as judged by said judging means (see at least figure 10).

10. In regards to claim 2, the personal information includes sex and age (column 4, lines 56-61). In regards to claim 3, the display equipment further includes memory (44) and various displays (figures 10 and 11) of indicating sequentially the data as calculated (column 7, lines 4-17 and column 8, lines 4-12). In regards to claims 5 and 6, the equipment feeds a pulsed current (column 5, lines 10-15) through said electrodes into the body, so as to treat the body.

11. However, Shimomura does not expressly disclose that a belt includes the plurality of pairs of electrodes. Kawanishi teaches a belt including a plurality of pairs of electrodes for the purpose of contacting electrodes with an abdominal part of a patient in order to measure body composition using impedance (see English abstract).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention to have used a belt including a plurality of pairs of electrodes as taught by Kawanishi with the equipment of Shimomura in order to achieve the predictable result of providing an alternative means for contacting electrodes with the body to make impedance measurements and determine body composition.

Response to Arguments

12. Applicant's arguments filed 10/30/2007 have been fully considered but they are not persuasive. Applicant argues that Shimomura does not teach a correlation between body weight and at least one approximate value of bone weight, water weight, and muscular weight. In response, as previously noted in the advisory action of 11/20/2007, it is respectfully submitted that figure 7 shows a correlation between BMI and LMI. LMI corresponds to muscular weight and BMI is calculated based on body weight. Therefore, figure 7 shows a correlation between muscular weight and body weight.

Conclusion

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Apanius whose telephone number is (571)272-5537. The examiner can normally be reached on Mon-Fri 9am-5:30pm.

14. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on (571) 272-4726. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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15. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MA

/Max Hindenburg/
Supervisory Patent Examiner, Art Unit 3736